

APPL NO: 10/684,132
AMDT DTD: 17 JAN 2006
REPLY TO FINAL OFFICE ACTION OF 18 OCT 2005

II. Remarks In Response to the Office Action

A. General Remarks

Claims 1-47 were pending in the application prior to this reply. Claims 1, 22-26, and 44-45 have been cancelled, and claims 48-65 have been added. Therefore, claims 2-21, 27-43, and 46-65 are pending.

This Reply to the Final Office Action of 18 Oct. 2005 is believed to place the application in condition for allowance. Accordingly, Assignee respectfully requests that this Reply be entered and considered by the Examiner.

B. Allowable Subject Matter

Claims 9-18, 34, 36-38, and 39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In response, Assignee has amended the claims as follows:

1. Claim 9 has been rewritten in independent form to include all of the limitations of base claim 1. Claims 2-8 and 19-21 depend from allowable claim 9. Therefore, claims 2-21 are believed allowable.
2. Claim 34 has been rewritten in independent form to include all of the limitations of base claim 26. Claims 27-33 and 35-43 depend from allowable claim 34. Therefore, claims 27-43 are believed allowable.
3. Claim 46 has been amended to include all of the limitations of allowable claim 9. In addition, new claims 48-56, which correspond to original claims 10-18, have been added and depend from amended claim 46. Accordingly, claims 46-56 are believed allowable.
4. Claim 47 has been amended to include all of the limitations of allowable claim 9. In addition, new claims 57-65, which correspond to original claims 10-18, have been added and depend from amended claim 47. Accordingly, claims 47 and 57-65 are believed allowable.

In light of these amendments, all pending claims 2-21, 27-43, and 46-65 are believed to be allowable, and Assignee respectfully requests a Notice of Allowance as the next paper from the Office.

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Assignee wishes to point out that amended claims 9, 34, 46, and 47 include textual changes to the language of the original claims as allowed in order to improve the readability of the amended claims. These textual changes have been made without altering the scope of the claims as allowed. For example, these changes include deleting or consolidating the use of "wherein," rearranging the order and formatting of language in the original claims, and adding and deleting instances of "and" in these claims 9, 34, 46, and 47. In addition, similar textual changes to the language of claims 13-17, 19, 36-37, and 39-40 have been made without altering their scope.

Assignee also wishes to point out that "sampling a first system metric" has been deleted from claims 9, 46, and 47 and that "sampling a second system metric" has been deleted from claim 19 because this language is considered redundant in light of the limitation of obtaining the system metric already in these claims 9, 19, 46, and 47. Accordingly, these changes have been made without altering the scope of claims 9, 19, 46, and 47 as allowed.

Finally, Assignee wishes to point out that claims 6, 8, 20, 21, and 42 have been amended to add —system— before "metric." These changes have been made without altering the scope of claims 6, 8, 20, 21, and 42.

C. Rejection under 35 U.S.C. § 102(e)

Claims 1-8, 19-33, 35, and 40-47 are rejected under 35 U.S.C. § 102(e) as being anticipated by McGee et al. (USPUB 2003/0110007). The rejection is considered moot because claims 1, 22-26, and 44-45 have been cancelled, claims 2-8 and 19-21 depend from claim 9, and claims 27-33 and 35-43 depend from claim 34.

D. Authorization to Charge Fees

This Reply adds 18 claims and cancels 8 claims. Therefore, this Reply adds 10 claims beyond which a fee has already been paid. Therefore, the undersigned representative authorizes the Commissioner to charge the additional claim fee of \$500.00 to Deposit Account No. 501922, referencing order no. 149-0101US. Should any fees be due for any reason, the undersigned representative authorizes the Commissioner to charge any additional fees that may be required, or credit any overpayment, to Deposit Account No. 501922, referencing order no. 149-0101US.

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To facilitate the resolution of any issues or questions presented by this paper, Assignee respectfully requests that the Examiner directly contact the undersigned by phone to further the discussion, reconsideration, and allowance of the claims.

Respectfully submitted,

1-17-2006
Date

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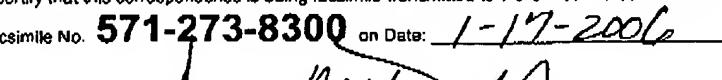
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Jan. 05/14/02-2-2+

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Signature

Sean M'Dermott
Typed or Printed Name of Person Signing Certificate